

PART 28

BONDS AND INSURANCE

28.103-2 Performance bonds.

FAR as of FAC 90-25

(a) Performance bonds may be required when necessary to protect the Government's interest. The following situations may warrant a performance bond:

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FAR as revised

(a) Performance bonds may be required **for contracts exceeding the simplified acquisition threshold** when necessary to protect the Government's interest. The following situations may warrant a performance bond:

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[FAC 90-29]

28.106-4 Contract clause.

FAR as of FAC 90-25

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FAR as revised

(a) * * * * *

(b) In accordance with Section 806(a)(2) of Pub. L. 102-190, as amended by Sections 2091 and 8105 of the Federal Acquisition Streamlining Act of 1994, Pub. L. 103-355, the contracting officer shall insert the clause at 52.228-12, Prospective Subcontractor Requests for Bonds, in solicitations and contracts with respect to which a payment bond will be furnished pursuant to the Miller Act (see 28.102-1), except for contracts for the acquisition of commercial items as defined in Subpart 2.1. [FAC 90-32]

28.106-6 Furnishing information.

FAR as of FAC 90-25

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FAR as revised

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(d) Section 806(a)(2) of Pub. L. 102-190, as amended by Sections 2091 and 8105 of Pub. L. 103-355, requires that the Federal Government provide subcontractors information on payment bonds under contracts for other than commercial items as defined in Subpart 2.1. Upon the written or oral request of a subcontractor/supplier, or prospective subcontractor/supplier, under a contract with respect to which a payment bond has been furnished pursuant to the Miller Act, the contracting officer shall promptly provide to the requester, either orally or in writing, as appropriate, any of the following:

- (1) Name and address of the surety or sureties on the payment bond.
- (2) Penal amount of the payment bond.
- (3) Copy of the payment bond. The contracting officer may impose reasonable fees to cover the cost of copying and providing a copy of the payment bond.

[FAC 90-32]

52.228-12 Prospective Subcontractor Requests for Bonds. [CASE 94-762]

As prescribed in 28.106-4, use the following clause:

**PROSPECTIVE SUBCONTRACTOR REQUESTS
FOR BONDS (OCT 1995)**

In accordance with section 806(a)(3) of Pub. L. 102-190, as amended by Sections 2091 and 8105, Pub. L. 103-355, upon the request of a prospective subcontractor or supplier offering to furnish labor or material for the performance of this contract for which a payment bond has been furnished to the Government pursuant to the Miller Act, the Contractor shall promptly provide a copy of such payment bond to the requester.

(End of clause)